

United States Court of Appeals
Fifth Circuit

FILED

April 27, 2004

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 03-60448
Summary Calendar

KASSA WOLDEMARIAM LEMMA,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A77 893 067

Before BARKSDALE, EMILIO M. GARZA, and DENNIS, Circuit Judges

PER CURIAM:*

Kassa Woldemariam Lemma challenges the decision of the Board of Immigration Appeals (BIA) dismissing his appeal from the Immigration Judge's (IJ) denial of his petition for asylum, withholding of removal, and relief under the Convention Against Torture (CAT).

The BIA's finding that Lemma failed to establish eligibility for asylum is supported by the requisite substantial evidence. See *Mikhael v. INS*, 115 F.3d 299, 304 (5th Cir. 1997); *Faddoul v.*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

INS, 37 F.3d 185, 188 (5th Cir. 1994). And, because Lemma is not eligible for asylum, he cannot meet the higher standard for withholding of removal. See **Faddoul**, 37 F.3d at 188. Moreover, Lemma failed to exhaust his claim for relief under the CAT, therefore this court is without jurisdiction to consider it. See **Wang v. Ashcroft**, 260 F.3d 448, 452-53 (5th Cir. 2001).

Lemma's claim that the IJ erred in excluding evidence under 8 C.F.R. §§ 3.33 and 287.6 (certification of foreign documents and translations) fails because he has not demonstrated substantial prejudice as a result of the exclusion. See **Molina v. Sewell**, 983 F.2d 676, 678 (5th Cir. 1993). His claim that his due process rights were violated by such exclusion under 8 C.F.R. § 287.6(b) fails for the same reason. See **Anwar v. INS**, 116 F.3d 140, 144 (5th Cir. 1997).

DENIED